

REMARKS

This Amendment responds to the Office Action mailed on May 26, 2005. It is accompanied by a petition for a three month extension of time. Time expired on November 26, 2005, but that date was on a Saturday, making this Amendment timely since it is being mailed on the first business day thereafter, Monday November 28, 2005. Re-examination and reconsideration of this application as amended herewith is respectfully requested.

Turning now to the specific rejections, claims 1-3 and 6 were rejected under 35 U.S.C. § 102 as being anticipated both by Goserud (U.S. Patent No. 5,813,529) and Lump (U.S. Patent No. 4,177,933). Claims 1-4 and 7 were rejected as being anticipated both by Brimo '020 (U.S. Patent No. 5,221,020) and Brimo '088 (U.S. Patent No. 5,346,088). In addition claim 5 was rejected under 35 U.S.C. § 103 as being rendered obvious by both Brimo '020 and Brimo '088.

All of the above identified prior art references teach caps or closures for cans or containers. None have any relevancy to a part of a high speed processing machine, termed an impressor assembly, that applies a great multiplicity of separate protective members to a great multiplicity of food and beverage cans or containers. The claims have all been amended to emphasize that the impressor assembly is a part of a machine that impresses the protective members to food and beverage cans or containers in a skin tight and wrinkle free manner, and is thereafter removed from the food and beverage cans or containers. The impressor assembly is not and never was a part of the can or container or the protective member it is used to apply to the can or container. All the added

language is supported by the existing specification without adding new matter. These amended claims are a direct distinction with the cited prior art on which the rejections were based.

In a telephone interview with the Examiner several months ago, it was pointed out by undersigned counsel that the references do not teach part of a high speed protective member application machine referred to a labeling device, they are limited to caps and closure to cans and containers. The Examiner took the position that since the structure is the same, it does not matter that the references are not for the machine, only for caps or covers.

Based on the Examiner's position at that time, Applicant has amended all claims to make it clear that the claims are limited to a part of a high speed labeling device, in which there is one impressor assembly for the processing of a great multiplicity of food and beverage cans or containers, and in which the impressor assembly is removed from the can. Under the circumstances of the claims in their amended form, taking the position that the structure of caps and covers makes an appropriate application member for a high speed machine applying a multiplicity of protective members to a multiplicity of cans or containers using a single impressor assembly is stretching these prior art references way beyond what they teach or suggest.

The Examiner's attention is respectfully drawn to the fact that it is well established that a reference only stands for what it actually discloses. In re Gordon, et al., 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984); Carl Schenck, A.G. v. Nortron Corp., 218 U.S.P.Q.2d 698, 702 (Fed. Cir. 1983); In re Imperato, 179 U.S.P.Q.

730, 732 (C.C.P.A. 1973). Put another way, modification of a reference unwarranted by the disclosure thereof is improper. Carl Schenck, A.G. v. Nortron Corp., supra.

Therefore, it is further respectfully submitted that all claims are now in condition for allowance. However, if any minor matter that remains could be expeditiously resolved by an Examiner's Amendment, the Examiner is respectfully invited to telephone undersigned counsel for the Applicant at the number provided below.

Finally, a change in counsel by the Applicant has resulted in a change of the Attorney Docket Number to 946-23 as set forth above. The Examiner is respectfully requested to revise the Attorney Docket Number in the PTO records accordingly.

Respectfully submitted,

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